

1 Matthew Franklin Jaksa (CA State Bar No. 248072)
2 HOLME ROBERTS & OWEN LLP
3 560 Mission Street, 25th Floor
4 San Francisco, CA 94105-2994
5 Telephone: (415) 268-2000
6 Facsimile: (415) 268-1999
7 Email: matt.jaksa@hro.com

ORIGINATED
FILED
6/1 NOV 29 AM 11:44 2007
RICHARD A. WEEING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8
9
10 Attorneys for Plaintiffs,
11 UMG RECORDINGS, INC.; VIRGIN
12 RECORDS AMERICA, INC.; SONY BMG
13 MUSIC ENTERTAINMENT; LAFACE
14 RECORDS LLC; and BMG MUSIC

15
16
17
18
19
20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA

MHP

22 CASE NO. 6030

23 EX PARTE APPLICATION FOR LEAVE
24 TO TAKE IMMEDIATE DISCOVERY

25 UMG RECORDINGS, INC., a Delaware
26 corporation; VIRGIN RECORDS AMERICA,
27 INC., a California corporation; SONY BMG
28 MUSIC ENTERTAINMENT, a Delaware
general partnership; LAFACE RECORDS LLC,
a Delaware limited liability company; and BMG
MUSIC, a New York general partnership,
Plaintiffs,

v.

JOHN DOE,
Defendant.

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil
2 Procedure 26 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting
3 Memorandum of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate
4 discovery.

5 In support thereof, Plaintiffs represent as follows:

6 1. Plaintiffs, record companies who own the copyrights in the most popular
7 sound recordings in the United States, seek leave of the Court to serve limited, immediate discovery
8 on a third party Internet Service Provider ("ISP") to determine the true identity of Defendant, who is
9 being sued for direct copyright infringement.¹

10 2. As alleged in the complaint, Defendant Doe, without authorization, used an
11 online media distribution system to download Plaintiffs' copyrighted works and/or distribute
12 copyrighted works to the public. Although Plaintiffs do not know the true name of Defendant Doe,
13 Plaintiffs have identified Defendant by a unique Internet Protocol ("IP") address assigned to
14 Defendant on the date and time of Defendant's infringing activity.

15 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents
16 that identify Defendant's true name, current (and permanent) address and telephone number, e-mail
17 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
18 identify Defendant Doe or pursue their lawsuit to protect their copyrighted works from repeated
19 infringement.

20 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in
21 advance of a Rule 26(f) conference where there are no known defendants with whom to confer.

22
23
24
25

26 ¹ Because Plaintiffs do not yet know Defendant's true identity, Plaintiffs are unable to personally serve
27 Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of Court pursuant to Fed. R. Civ. P.
28 5(b)(2)(C) ("If the person served has no known address, [service under Rule 5(a) is made by] leaving a copy with the
clerk of the court.") and will serve Defendant's ISP with a copy of this motion. Additionally, if the Court grants this
motion, Plaintiffs will ask the ISP to notify the Defendants of the subpoena and provide Defendant with an opportunity
to object.

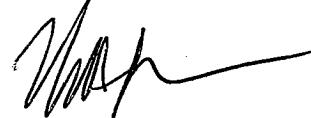
1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct
2 the foregoing requested discovery immediately.

3
4 Dated: November 29, 2007

HOLME ROBERTS & OWEN LLP

5
6 By: _____
7

MATTHEW FRANKLIN JAKSA
Attorney for Plaintiffs
UMG RECORDINGS, INC.; VIRGIN
RECORDS AMERICA, INC.; SONY
BMG MUSIC ENTERTAINMENT;
LAFACE RECORDS LLC; and
BMG MUSIC



10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28